IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 19831 of 2004

Between:

K. Md. Samiullakhan, S/o Aabibullakhan, Conductor,
R/o D.No. 1-1065, Kadiri, Anantapur District.

…PETITIONER

AND

1 The Depot Manager, APSRTC, Kadiri Depot, Ananthapur District.
2 The Dy. Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur District.
3 The Regional Manager, APSRTC, Anantapur District, Ananthapur.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in imposing major penalty vide proceedings No. 02/62(123) 96 KDR dated 7-1-1997 and 28-5-1997 without conducting enquiry and confirming the same by the 2nd and 3rd respondents of their proceedings vide No. St/19(175)97 Dy. CTM.A. dated
22-12-1998 and proceedings No. PA/20(77)/99 RM.A dated 14-6-2000 respectively as illegal, arbitrary, unjustified, unsustainable, contrary to law and violative of the principles of natural justice and set aside the same and consequently direct the respondents to add two annual increments to the pay of the petitioner.

For the Petitioner:MR.P.VARA PRASAD RAO, Advocate

For Respondent Nos. 1 to 3.: MR.P.VINAYAKA SWAMY, Standing Counsel for APSRTC

The Court at the admission stage made the following:

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ORAL ORDER:

1. The petitioner is working as a Conductor in the third respondent Corporation. He was issued a Charge Memo on 20-11-1996 and after receiving the explanation of the petitioner; the final orders were passed on 7-1-1997 imposing the penalty of reduction of two annual increments with cumulative effect. The petitioner contends that he preferred an appeal and also a revision petition against the order dated 7-1-1997, but they went against him. The petitioner is questioning the above order on the ground that though there is reduction of one increment with cumulative effect, which is a major penalty, the respondents have passed the said order without conducting any enquiry as required under the rules. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

2. The petitioner after receiving the adverse orders slept over the matter for a period of 7 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two increments without cumulative effect.

3. In the result, the order dated 7-1-1997 is modified and the punishment imposed on the petitioner is reduced to two annual increments without cumulative effect. However, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the order dated 7-1-1997 till the date of this order. But, he is entitled to get increments on notional calculation after completion of the

punishment period i.e., from 7-1-1999 or from the date on which the increment fell due immediately after completion of the punishment period till the date of this order. The writ petition is accordingly disposed of.

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(Dr.G.Yethirajulu, J)

29th October 2004.

Note:

Issue C.C. in one week.

(By order)

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Depot Manager, APSRTC, Kadiri Depot, Ananthapur District.
2. The Dy. Chief Traffic Manager, APSRTC, Ananthapur Region, Ananthapur District.
3. The Regional Manager, APSRTC, Anantapur District, Ananthapur.
4. Mr.P. Varaprasada Rao, Advocate (OPUC)
5. Mr.P.Vinayakaswamy, Advocate (OPUC)
6. 2 CD copies

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